REMARKS

Claims 14, 20 and 26 have been amended and claims 1 to 13, the non-elected claims, have been previously canceled. Claims 14 to 44 remain active in this application of which claims 19, 25, 29 to 31, 33 to 35 and 42 to 44 have been indicated to have allowable subject matter.

Claims 14 to 18, 20 to 24, 26 to 28, 32 and 36 were rejected under 35 U.S.C. 102(b) as being anticipated by Yalvac et al. (U.S. 5,310,526). The rejection is again respectfully traversed.

In addition to the arguments previously presented, which are incorporated by reference, it should be noted that the device as claimed is a portable device. This is clearly brought out in the preamble to the independent claims. Yalvac et al. is clearly not portable and, in fact, is demonstrated to be affixed to the wall of a chemical reactor. For this reason alone, all of the rejected claims define patentably over Yalvac et al.

In addition, claim 14 as well as all of the independent claims require that a fluid compartment for retaining therein an analyte, said fluid compartment in fluid communication with the sensor surface; No such structure is taught or even remotely suggested by Talvec et al. The detector 40 of Yalvac et al. is not in communication with the material being analyzed, but rather is remote therefrom. This feature adds to the ability of providing a portable device. The device of Yalvac et al. is not and cannot be portable.

Claims 15 to 18 depend from claim 14 and therefore define patentably over Yalvac et al. for at least the reasons stated above with reference to claim 14.

In addition, claim 15 further limits claim 14 by requiring that the miniature electro-mechanical vibration device be further configured to vigorously agitate the contents of the fluid compartment. No such feature is taught or suggested by Yalvac et al. in the combination as claimed.

Claim 16 further limits claim 14 by requiring that the fluid compartment be configured to receive a liquid sample having an analyte suspended or dissolved therein, and further that the vibration device be configured to vigorously agitate the fluid compartment to cause an analyte suspended or dissolved in the liquid sample to accelerate the mass transport of analyte beyond that available in the absence of agitation. No such feature is taught or suggested by Yalvac et al. either alone or in the combination as claimed.

Claim 17 further limits claim 14 by requiring that the biosensor comprise an optically based miniaturized sensor. No such feature is taught or suggested by Yalvac et al. in the combination as claimed.

Claim 18 further limits claim 14 by requiring that the fluid compartment comprise a fluid chamber and a lid configured to open and close such that a liquid or solid sample having a first analyte suspended therein can be sealed within the chamber. No such feature is taught or suggested by Yalvac et al. either alone or in the combination as claimed.

Claim 20 requires the features discussed above with reference to claim 14, the arguments as to claim 14 being incorporated by reference.

Claims 21 to 24 depend from claim 20 and therefore define patentably over Yalvac et al. for at least the reasons presented above with reference to claim 20.

Claim 21 further limits claim 20 by requiring that the miniature electro-mechanical vibration device be further configured to vigorously shake the fluid compartment. No such feature is taught or suggested by Yalvac et al. in the combination as claimed.

Claim 22 further limits claim 20 by requiring that the fluid compartment be configured to receive a liquid sample having an analyte suspended or dissolved therein, and that the vibration device be

configured to vigorously shake the fluid compartment to cause the analyte suspended or dissolved in the liquid sample to accelerate the mass transport of analyte beyond that available in the absence of agitation. No such feature is taught or suggested by Yalvac et al. either alone or in the combination as claimed.

Claim 23 further limits claim 20 by requiring that the biosensor comprise an optically based miniaturized sensor. No such feature is taught or suggested by Yalvac et al. in the combination as claimed.

Claim 24 further limits claim 20 by requiring that the fluid compartment comprises a fluid chamber and a lid configured to open and close access to the fluid chamber such that a liquid or solid sample having a first analyte suspended therein can be sealed within the chamber. No such feature is taught or suggested by Yalvac et al. either alone or in the combination as claimed.

Claim 26 requires the features discussed above with reference to claim 14, the arguments as to claim 14 being incorporated herein by reference.

Claims 27, 28, 32 and 36 depend from claim 26 and therefore define patentably over Yalvac et al. for at least the reasons presented above with reference to claim 26.

In addition, claim 27 further limits claim 26 by requiring that the biosensor comprise an optically based miniaturized sensor. No such feature is taught or suggested by Yalvac et al. in the combination as claimed.

Claim 28 further limits claim 26 by requiring a sealing element configured to selectively seal the sample compartment. No such feature is taught or suggested by Yalvac et al. in the combination as claimed.

Claim 32 further limits claim 26 by requiring that the sample comprise at least one form selected from the group consisting of a liquid and a solid. No such feature is taught or suggested by Yalvac et al. either alone or in the combination as claimed.

Claim 36 further limits claim 26 by requiring that the sample compartment be configured to receive a liquid sample having an analyte suspended or dissolved therein, and that the vibration device be configured to vigorously shake the sample compartment to cause the analyte suspended or dissolved in the liquid sample to accelerate the mass transport of analyte beyond that available in the absence of agitation. No such feature is taught or suggested by Yalvac et al. either alone or in the combination as claimed.

Claims 37 to 41 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kalvac et al. in view of Sunshine (U.S. 6,085,576). The rejection is respectfully traversed.

Claims 37 to 41 depend directly or indirectly from claim 26 and therefore define patentably over the applied references since Sunshine fails to overcome the deficiencies noted above with reference to Yalvac et al.

In addition, claim 37 further limits claim 26 by requiring a data processing device, a data input device in communication with the data processing device, an algorithmic software directing the data processing device and a data storage unit, wherein discrete analyte data associated with a sample contained within the sample compartment is stored and supplied to the data processing device such that the data processing device, directed by the algorithmic software, will automatically determine bioanalytical data associated with the sample, wherein predetermined parameters associated with the bioanalytical data are determined via the data input device. No such features are taught or suggested by Yalvac et al., Sunshine or any proper combination of these references either alone or in the combination as claimed.

Claim 38 further limits claim 37 by requiring that the data processing device be a digital signal processor. No such features are taught or suggested by Yalvac et al., Sunshine or any proper combination of these references in the combination as claimed.

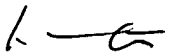
Claim 39 further limits claim 37 by requiring that the data input device be a keypad. No such features are taught or suggested by Yalvac et al., Sunshine or any proper combination of these references in the combination as claimed.

Claim 40 further limits claim 26 by requiring means for transmitting and receiving data via a wireless communications link. No such features are taught or suggested by Yalvac et al., Sunshine or any proper combination of these references in the combination as claimed.

Claim 41 further limits claim 40 by requiring that the means for transmitting and receiving data comprise a radio frequency receiver and a radio frequency transmitter. No such features are taught or suggested by Yalvac et al., Sunshine or any proper combination of these references or in the combination as claimed.

In view of the above remarks, favorable reconsideration and allowance are respectfully requested.

Respectfully submitted,



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